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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,228	06/25/2001	Jeffrey H. Alger	03797.00013	3296
7590	11/05/2004		EXAMINER	CHEA, PHILIP J
Pamela I. Banner Banner & Witcoff, Ltd. 1001 G Street, N.W., 11th Floor Washington, DC 20001-4597			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/892,228	ALGER ET AL.
<b>Examiner</b>	<b>Art Unit</b>	
	Philip J Chea	2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 25 June 2001.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-15 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 14 January 2002 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

**DETAILED ACTION**

Claims 1-24 have been examined.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, drawn to a portal for retrieving content from a network, classified in class 709, subclass 217.
- II. Claims 16-18, drawn to electronic catalog for purchasing items through a client portal, classified in class 705, subclass 27.
- III. Claims 19-24, drawn to a method of purchasing products through a network, classified in class 705, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

Inventions I. and II. are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the application in group I. describes data retrieval from a network that does not require the catalog as described in group II. The subcombination has separate utility such as general online purchasing.

Inventions I. and III. are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the application in group I describes data retrieval from a network that does not require

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the method of purchasing as described in group III. The subcombination has separate utility such as maintaining state information during online purchasing.

Inventions II. and III. are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions II. and III. have separate utility wherein in invention II. could be used as a standalone portal in a shopping store and invention III. can be used over a network for maintaining state over multiple sessions. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Chris Glembocki on 10/20/04 a provisional election was made without traverse to prosecute the invention of group I., claims 1-15. Affirmation of this election must be made by applicant in replying to this Office action. Claims 16-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Drawings***

The drawings are objected to because:

- Note Fig. 1, reference number 125 ROM is apparently RAM.
- Fig. 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

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The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description:

- Note page 7 paragraph 20 line 10, "serial port interface 46".
- Note page 8 paragraph 24 line 4, "second task bar 409".
- Note page 9 paragraph 24 line 15, "Home command button 222".

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- Note Fig. 1 references 155, 156, and 162.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The disclosure is objected to because of the following informalities:

- Note page 20 paragraph 54 last line, "may users" is apparently "may want users".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, and 5, are rejected under 35 U.S.C. 102(b) as being anticipated by RealPlayer 5.0 (RealNetworks, Inc. RealPlayer 5.0 Manual).

As per claim 1, RealPlayer discloses an application that uses content to perform a function, as claimed comprising:

a client portal for retrieving content from a network, such that content retrieved by the client portal is seamlessly integrated into the application for use (page 11, paragraph 1, lines 1 and 2).

As per claim 2, RealPlayer discloses the application providing an interface for manipulating content retrieved from the network (page 11, figure 2 (play, stop, and forward buttons); and

the client portal retrieves content from the network directly into the interface (page 11, figure 2, Image Area).

As per claim 4, RealPlayer discloses a media player for playing electronic media (page 11, paragraph 1, lines 1 and 2).

As per claim 5, RealPlayer discloses the client portal capable of retrieving content from only preselected sites in the network (page 11, figure 2, Destination Buttons).

Claims 1, 2, and 5-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bezos et al. (U.S. 6,029,141).

As per claim 1, Bezos et al. disclose an application that uses content to perform a function, as claimed comprising:

a client portal for retrieving content from a network, such that content retrieved by the client portal is seamlessly integrated into the application for use (columns 6 and 7, lines 59-67).

As per claim 2, Bezos et al. disclose the application providing an interface for manipulating content retrieved from the network (column 7, lines 6-20); and

the client portal retrieves content from the network directly into the interface (column 7, lines 6-20).

As per claim 5, Bezos et al. disclose the client portal capable of retrieving content from only preselected sites in the network (column 6 and 7, lines 59-67 and 1-5).

As per claim 6, Bezos et al. disclose a browser capable of retrieving content from only preselected sites that are related to providing a particular product (column 6 and 7, lines 59-67 and 1-5).

As per claim 7, Bezos et al. disclose including a memory for storing the preselected sites (column 6, lines 59-67).

As per claim 8, Bezos et al. disclose at least one of the preselected sites list other preselected sites (see column 15, lines 28-36, and Fig. 9 = preselected sites and Fig. 10a = other preselected sites).

As per claim 9, Bezos et al. disclose at least one of the preselected sites lists sites that are available for preselection (column 7, lines 6-20, where preselected sites available are considered links to the merchants websites).

As per claim 10, Bezos et al. disclose a portal wherein the browser provides a header identifying characteristics of the browser (column 8, lines 17-22). *A cookie is considered the header that identifies the characteristics of the browser.*

As per claim 11 and 13, Bezos et al. disclose a catalog of items for purchase, which are also from multiple content sources (column 7, lines 6-11).

As per claim 12, Bezos et al. disclose the portal including a memory, and the catalog downloaded into the memory (column 6, lines 59-67).

As per claim 14, Bezos et al. disclose identifying a user of the client portal (column 9, lines 9-20, where user = Italian chef, and selection of items = favorite cookbooks). Also see 103 rejection below.

As per claim 15, Bezos et al. disclose the catalog containing a selection of items for purchase based upon a previous relationship between the user and a content retailer (see column 9, lines 9-20, where relationship = established reputation from some user). Also see 103 rejection below.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al. and further in view of Shafer et al. ("Recommender Systems in E-Commerce" 1999).

Bezos et al. shows substantial features of the claimed invention (discussed above). In further support identifying a user of the client portal and having a catalog that contains a selection of items for purchase based upon a previous purchase history of the user are well known in the art and would have been an obvious modification of the system disclosed by Bezos et al., as evidenced by Shafer et al.

In an analogous art, Shafer et al. disclose an e-commerce system where there is a means of presenting catalog information based upon a previous purchase history of the user (page 158, column 2, second paragraph)..

Given the teaching of Schafer et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bezos et al. by employing a product recommendation based on a users previous purchase history, such as disclosed by

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Shafer et al., in order to help an e-commerce site adapt itself to each customer enabling individual personalization (Schafer et al., column 2, second paragraph).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al. and further in view of Bizrate.com

(<http://web.archive.org/web/20000229081019/bizrate.com/inside/index.xpm?rf=1.1:4.0> 1999).

Bezos et al. shows substantial features of the claimed invention (discussed above). In further support identifying a user of the client portal and having a catalog that contains a selection of items for purchase based upon a previous relationship between the user and a content retailer are well known in the art and would have been an obvious modification of the system disclosed by Bezos et al., as evidenced by Bizrate.com.

In an analogous art, Bizrate.com discloses an e-commerce system where there is a means of identifying a user of the client portal and having a catalog that contains a selection of items for purchase based upon a previous relationship between the user and a content retailer (see All the Web's Best Stores, Ranked According to Your Needs)

Given the teaching of Bizrate.com, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bezos et al. by employing a product recommendation based on a user's previous relationship with a content provider, such as disclosed by Bizrate.com, in order to help an e-commerce site to provide products suitable to their consumers (see All the Web's Best Stores, Ranked According to Your Needs).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al., in view of admitted prior art (Admission).

As per claim 3, although the system disclosed by Bezos et al. shows substantial features of the claimed invention (discussed above), it fails to disclose a rendering application for eBooks.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Bezos et al., as evidenced by admitted prior art.

In an analogous art, applicant discloses that a rendering application for eBooks is well known in the art (page 2, paragraph 5, lines 6-9).

Given the teaching of the admitted prior art, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bezos et al. by allowing the application to render eBooks, such as disclosed by the applicant, in order to purchase eBooks from a site such as Amazon to save paper and shipping costs.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Green, Jonathan B. et al.	US 5664110 A
Yonezawa, Kay et al.	US 5905973 A
Franklin, D. Chase et al.	US 6125352 A
Cybul, Richard C. et al.	US 6246997 B1
Preston, Susan Janet	US 20010042011 A1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J Chea whose telephone number is 703-605-1202. The examiner can normally be reached on M-F 7:45-4:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip J Chea  
Examiner  
Art Unit 2153

PJC

*Bradley Edelman*  
Art Unit 2153